

REMARKS/ARGUMENTSPriority of Application

Applicant notes that a claim of priority has been made to U.S. Patent Application Serial Number 09/439,414 (the '414 patent application) and U.S. Patent Application Serial No. 08/971,842 (the '842 application). The '842 application was filed on September 11, 1997. The '414 patent application was filed on November 11, 1999 as a continuation of the '842 application. The Office has acknowledged that Applicant has made the claim of priority. Filing Receipt, dated April 05, 2001. However, the Office has stated that the claim of priority is inconsistent with PTO records. The Office indicated that the '414 application was abandoned. Accordingly, Applicant believes that the Examiner has not utilized the filing date of September 11, 1997 for the present application for the analysis of the cited art.

Applicant submits that the '414 application was not abandoned when Applicant filed the present application containing the claim of priority thereto. Specifically, Applicant notes that an Office Action for the '414 application was mailed August 8, 2000. A shortened statutory response date was set at three months (i.e., at November 8, 2000). On January 24, 2001, Applicant filed a petition for the extension of time of three months (a copy of which is attached hereto as Exhibit A for the convenience of the Examiner) including the appropriate fee via Express Mail thereby extending the time for response to the outstanding Office Action until February 8, 2001. Therefore, the '414 application was not abandoned until February 9, 2001. Applicant filed the present application on January 25, 2001. Furthermore, 35 U.S.C. § 120 states that an application for patent shall be entitled to the filing date of a prior application if "filed before the patenting or abandonment of or termination of proceedings" of the prior application. Thus, Applicant submits that the present application is entitled to at least the benefit of priority extending back to September 11, 1997 for subject matter disclosed in the '842 application.

Rejections under 35 U.S.C. § 102(b)

Claims 1-4, 6-11, 13-17 and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,077,080 to Rai (hereinafter Rai).

Claims 5, 12, and 18-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rai in view of U.S. Patent No. 6,022,222 to Guinan (hereinafter Guinan).

Applicant notes that claims 9-20 have been cancelled without prejudice. The rejection of these claims and Applicant's traverse thereof is now moot. Accordingly, Applicant does not address these claims herein.

Claim 1 recites, in part:

providing alternative visual stimuli to communicate language constructs of said language construct set by associating a unique color with each language construct of said language construct set; and
representing each language construct by utilizing its respective unique color.

Applicant notes that the '842 application disclosed systems and methods for efficiently communicating including assigning "each different alpha-numeric, musical note, and symbol...a distinct color." Page 3. Accordingly, Applicant respectfully submits that claim 1 is fully supported by the subject matter disclosed in the '842 application. Therefore, Applicant respectfully submits that Rai is not proper art to be applied to claim 1. Specifically, Rai was filed October 6, 1998 and issued June 20, 2000 well after September 11, 1997 (see above discussion regarding priority). Claims 2-8 depend from claim 1 and, hence, inherit all limitations of claim 1. Therefore, Rai is also not proper art to be applied to claims 2-8. Because Rai is not proper art to be applied against claims 1-8, Applicant respectfully submits that the present rejections of the claims under 35 U.S.C. §§ 102, 103(a) are improper and should be withdrawn.

New Claims

Applicant has added new claims 21-32. New claims 21-32 are supported by the specification on, inter alia, page 10, line 25 through page 14, line 20. No new matter has been entered.

Claim 21 recites, in part:

scanning a plurality of scaling symbols of a computer readable indicia to determine baseline values associated with respective chromatic components utilized to encode information on said computer readable indicia;

scanning a plurality of language construct symbols of said computer readable indicia to determine respective encoding levels for each chromatic component for each of a plurality of language construct symbols;

comparing the baseline values of the respective chromatic components to said encoding levels to determine a chromatic state of each of said plurality of language construct symbols; and

mapping each of said chromatic states to a respective language construct to

decode said computer readable indicia.

Claim 28 recites, in part:

means for determining baseline values associated with respective chromatic components of a computer readable indicia, wherein said chromatic components are utilized to encode information on said computer readable indicia;

means for determining respective encoding levels for each chromatic component for each language construct symbol of said plurality of language constructs symbols;

means for comparing the baseline values of the respective chromatic components to said encoding levels to determine a chromatic state of each of said plurality of language constructs symbols; and

means for mapping each of said chromatic states to a respective language construct to decode said computer readable indicia.

Applicant respectfully submits that claims 21 and 28 are patentable over the cited art. Specifically, Rai and Guinan merely disclose methods for presenting information to a user. Rai and Guinan, either alone or in combination, do not teach or suggested the claimed system and method of decoding encoding information from a computer readable indicia. Specifically, Guinan is directed to a computerized method for learning a nature language through the visual depiction of grammar. In Guinan's method, computer icons are presented to a user to represent each word that is introduced during a language lesson to enhance the user's ability to learn the introduced words. Guinan does not address decoding information of any kind, yet alone address the claimed subject matter.

Similarly, Rai discloses an educational method for assisting individuals to learn "proper English reading, sounding, and spelling." Rai merely discloses a method where ordinary computerized text is converted into a specialized font (the "AIR font") that displays information related to the sound of words utilizing colors for the respective letters and symbols above the respective letters. *See* col. 2, lines 46-55 and col. 7, line 64 - col. 8, line 10.

The Examiner has asserted that Rai discloses "detecting color states...associated with a language construct representation." Office Action, page 3, third full paragraph. The Examiner states that Rai discloses that "[t]he selected print text can be manually input or altered to a digital format through scanning into the computer with existing published software and hardware." Page 4.

In this portion of text, Rai merely discloses how to convert ordinary text into the special AIR font. Rai discloses that a user may manually input text and that inputted text

may be converted into the AIR font. Col. 8, lines 9-17. Alternatively, if the user does not wish to manually input the text, ordinary scanning and optical recognition technology may be used to converted printed text (e.g., from a book) into digital text. The digital text may then be presented to the user using the AIR font. *Id.* Thus, the application of the AIR font only occurs after the scanning and optical recognition occurs. Rai does not teach or suggest that the printed text to be scanned includes information encoded utilizing chromatic components. Therefore, Rai does not teach or suggest determining the color states of symbols of a computer readable indicia.

The Examiner has further asserted that a “16-bit color scanner...was well known to one of ordinary skill in the relevant art.” Page 4. This is merely an assertion that physical hardware exists that enables the color information of a document to be determined. However, claims 21 and 28 do not merely claim coloring scanning in general. Instead, claims 21 and 28 require decoding chromatically encoded symbols utilizing baseline values of the chromatic components and a suitably implemented mapping algorithm. There is no basis in the record to suggest that these claimed limitations would be obvious to one of ordinary skill in the art. Also, Applicant notes that the mere fact that a reference could be modified in a manner similar to the claimed subject matter does not establish a *prima facie* case of obviousness. M.P.E.P. § 2143.01, citing *In re Mills*, 16 USPQ2d 1430 (Fed. Cir. 1990).

Accordingly, Applicant submits that claims 21 and 28 are allowable over the cited art, because the cited art does not teach or suggest each and every limitation of claims 21 and 28. Moreover, claims 22-27 and 29-32 respective depend from base claims 21 and 28 and, hence, inherit all limitations of claims 21 and 28. Therefore, claims 22-27 and 29-32 are also allowable over the cited art.

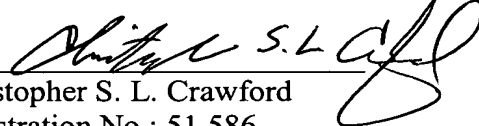
Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Applicant has addressed the extension of time fee in the concurrently submitted petition for the extension of time. However, if other fee or fee amount is due, please charge our Deposit Account No. 06-2380, under Order No. 056553/P001CP1/10103864 from which the undersigned is authorized to draw.

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Respectfully submitted,

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